

From: Frances B. Smith
To: Microsoft ATR
Date: 1/28/02 4:11pm
Subject: Microsoft Settlement

January 28, 2002

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, NW
Suite 1200
Washington, DC 20530-0001

Subject: Microsoft Settlement

Dear Ms. Hesse,

I would like to express Consumer Alert's support for acceptance of the Proposed Final Judgment to resolve the antitrust case against Microsoft. Consumer Alert, founded in 1977, is a non-profit, non-partisan consumer group with individual members in all 50 states. In addition, Consumer Alert is the founder and coordinator of the National Consumer Coalition (NCC). The NCC is an on-going coalition made up of 23 non-profit organizations, with those groups' members numbering over 3 million.

In today's uncertain economic climate, it is in the best interests of consumers to have the issues settled and to bring to an end litigation that could further stymie our economic recovery. The agreement is needed to "provide a prompt, certain and effective remedy for consumers." The technology sector and its resurgence could be vital to renewed economic growth, not only in the U.S. but in the world economy.

The remedies provided in the settlement are far-reaching and address the business practices that the court found to be anti-competitive. Offered by the U.S. Department of Justice, the proposed settlement was endorsed by nine State Attorneys General. The settlement could bring an end to litigation that has created an uncertain and disruptive climate.

With this settlement, consumers likely will continue to benefit from the products and services offered by firms that operate in dynamic and rapidly changing markets and are innovative in their distribution systems. Those who would seek further redress would try to shape the markets of today into a narrow and static mold of competition -- one that would threaten consumer welfare. Satisfying the demands of competitors, at the expense of consumers, should not be the principal factor governing the resolution of this antitrust suit.

Throughout the three-year litigation process, no evidence of consumer harm was offered. Instead, it appeared that competitors wanted the legal system to help them with their business plans. Some of those who are pressing for further restrictions may claim that those are needed to protect consumers from anti-competitive practices. Yet consumers are the ones who benefit from creative institutional and technological change and are far more likely to be injured by political restrictions on such change, especially when such restrictions favor competitors.

Obstructing the agreement is likely to have widespread unintended consequences that could disrupt the continuation of these consumer benefits.

Consumers are benefiting from intense competition that has "democratized" access to technology in the past decade. Not least of these are dramatically lower prices, ease of use for even the untutored, and the continuous unveiling of innovative products and services. Even during the past three years while this case was being litigated, technological advances continued unabated, many offered by Microsoft, but others portending new possibilities in information technology and new alignments.

Consumers are the ones who benefit from the vibrant competition that exists. They are the ones who would suffer from further antitrust action or draconian remedies that attempt to delineate how competition should evolve. The nature and speed of institutional and technological change is misunderstood. Today, no one can predict the future of IT -- who the players will be and who are the likely winners and losers. Those who would use antitrust policy to mold their view of the future are likely to create impediments to innovation. Predicting where systems will go in the future is a task for markets and ultimately the customers in those markets -- consumers.

Sincerely,

Frances B. Smith
Executive Director
Consumer Alert
1001 Connecticut Ave., NW, Suite 1128
Washington, DC 20036
Phone: 202-467-5809
Fax::202-467-5814
www.consumeralert.org